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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/585,694

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Michel Quoniam

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SUGHRUE MION, PLLC  
2100 PENNSYLVANIA AVENUE, N.W.  
SUITE 800  
WASHINGTON, DC 20037

EXAMINER

CHU, KING M

ART UNIT

PAPER NUMBER

3728

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/585,694	<b>Applicant(s)</b> QUONIAM, MICHEL	
	<b>Examiner</b> KING M. CHU	<b>Art Unit</b> 3728	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 27 April 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 July 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>07/10/2006</u> .  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Claim Objections***

1. Claim 14 is objected to because of the following informalities: The word “printers’ varnish” should read “printer’s varnish. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

2. Claim 18 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The word “different” is indefinite since there can be any number of features that can be interpreted as “different.”

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-4, 8, and 18-19 are rejected under 35 U.S.C. 102(b) as being anticipated by Renner (5,727,687).

#### **In reference to Claim 1**

Renner discloses a blister strip for use in a fluid or powder inhaler (package for pharmaceutical articles, column 2 lines 31-35), and including a plurality of blisters, each formed by a reservoir (where element 10 sits) including an opening (where element 10 is

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exposed in Figure 4) that is sealed in leaktight manner by a tearable layer (15) the blister strip being characterized in that it comprises at least a base layer (12) that is provided with openings forming the openings of the blisters, and a cavity layer (11) that is provided with cavities forming the blister walls, said tearable layer comprising a first tearable-layer portion (15) that is disposed between said base layer and said cavity layer, and a second tearable-layer portion (14) that is disposed on the opposite side of said base layer, said first and second tearable-layer portions being connected together at each opening of the base portion (see Figure 2-3).

In reference to Claim 2

Renner discloses that the first and second tearable-layer portions are made from the same material (column 2, lines 45-51).

In reference to Claim 3

Renner discloses that the first and second tearable-layer portions are connected together as a single part in each opening of the base layer (see figure 2).

In reference to Claim 4

Renner discloses that the single-part connection is made by fusing material (since the tearable layer 15 is an adhesive foil, the fusing material is the adhesive, column 4 lines 5-10).

In reference to Claim 8

Renner discloses that the base layer comprises polyester (column 4 lines 42-50).

In reference to Claim 18

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Renner discloses all of the elements of the claimed invention including that the adherence of the tearable layer to the base layer between the openings is different from the adherence in the proximity of said openings (see Figure 1-3, the layers 15 and 14 are adhered differently to layer 12 within the proximity of the opening in figure 2 and figure 3 such that layer 12 is adhered around its perimeter rather than through the hole).

In reference to Claim 19

Renner discloses all of the elements of the claimed invention including that the blisters container a pharmaceutical powder (Renner discloses that pharmaceutical products can be contained column 2 lines 31-35).

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 5 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Renner.

In reference to Claim 5

Renner discloses most of the elements of the claimed invention except that the tearable layer comprises polyethylene. However Renner does teach that the tearable layers can be made from plastic material, which is a type of polymer. Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Renner's invention so that another material is substituted instead of plastic, Such as

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polyethylene. The motivation would have been simply a substitution of a material by choice.

In reference to Claim 10

Renner discloses most of the elements of the claimed invention except that the cavity layer comprises polyethylene and/or polypropylene. However Renner does teach that the cavity layer can be made from plastic material, which is a type of polymer.

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Renner's invention so that another material is substituted instead of plastic, Such as polyethylene. The motivation would have been simply a substitution of a material by choice.

5. Claims 6, 7, 9, and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Renner in view of Kallstrand et al. (Kallstrand 5,533,505).

In reference to Claim 6

The modified Renner in view of claim 5 has most of the elements of the claimed invention except that the first and second tearable-layer portions are constituted by a continuous film.

However, Kancsar does teach that film like materials such as the tearable layers (6, folded upon itself to make 2 layers, see Figure 3A-3C).

Both references teach blister packages. Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the modified Renner so that the tearable layers are constituted by a continuous film, as disclosed by Kallstrand. The motivation would have been to allow for better opening of the reservoir area for dispensing.

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In reference to Claim 7

Renner discloses most of the elements of the claimed invention except that the first and second tearable-layer portions comprises a film having thickness that is less than 100  $\mu\text{m}$ , advantageously lying in the range 10  $\mu\text{m}$  to 40  $\mu\text{m}$ , and preferably equal to 30  $\mu\text{m}$ .

However Kallstrand does teach that the strip (6) can have different thickness of layers where one layer can be 45  $\mu\text{m}$  and another layer can be 25  $\mu\text{m}$  thick.

Both references teach blister packages. Therefore Kallstrand reference a range encompassing a somewhat narrower claimed range is sufficient to establish a prima facie case of obviousness."

In re Peterson, 315 F.3d 1325, 1330, 65 USPQ2d 1379, 1382-83 (Fed. Cir. 2003).

In reference to Claim 9

Renner discloses most of the elements of the claimed invention except that the base layer (6) comprises a film having thickness that is less than 100  $\mu\text{m}$ , advantageously lying in the range 40  $\mu\text{m}$  to 60  $\mu\text{m}$ , and preferably equal to 50  $\mu\text{m}$ .

However Kallstrand does teach that the strip (6) can have different thickness of layers where one layer can be 45  $\mu\text{m}$  and another layer can be 25  $\mu\text{m}$  thick.

Therefore Kallstrand reference a range encompassing a somewhat narrower claimed range is sufficient to establish a prima facie case of obviousness." In re Peterson, 315 F.3d 1325, 1330, 65 USPQ2d 1379, 1382-83 (Fed. Cir. 2003).

In reference to Claim 12

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Renner discloses most of the elements of the claimed invention except that the first aluminum layer has thickness that is less than 50  $\mu\text{m}$ , advantageously lying in the range 10  $\mu\text{m}$  to 30  $\mu\text{m}$ , and preferably equal to 20  $\mu\text{m}$ .

However Kallstrand does teach that the strip (6) can have different thickness of layers where one layer can be 45  $\mu\text{m}$  and another layer can be 25  $\mu\text{m}$  thick.

Therefore Kallstrand reference a range encompassing a somewhat narrower claimed range is sufficient to establish a prima facie case of obviousness." In re Peterson, 315 F.3d 1325, 1330, 65 USPQ2d 1379, 1382-83 (Fed. Cir. 2003).

6. Claims 11, 13, 15, and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Renner in view of Navarini et al. (Navarini 6,056,141).

In reference to Claim 11

Renner discloses most of the elements of the claimed invention except that the tearable layer further includes a first aluminum layer that is fastened to said second tearable-layer portion. However Renner does teach that aluminum can be used as a layer (column 1 lines 7-23). It is also known in the art to use multiple layers for sealing a reservoir (Navarini Figure 5A-5E). Both references teach a blister package. Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Renner's invention so that an additional layer is added to the second tearable-layer, as taught by Navarini. The motivation would have been to further reinforce the second tearable-layer.

In reference to Claim 13



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Renner disclose most of the elements of the claimed invention except that a polyester layer and an adhesive layer are disposed between said second tearable layer portion and said first aluminum layer.

However Renner does teach that polyester can be used as a material for a layer (column 4 lines 42-50). It is also known in the art to use multiple layers for sealing a reservoir (Navarini Figure 5A-5E). Both references teach a blister package. Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Renner's invention so that two additional layers are added to the second tearable-layer, as taught by Navarini. The motivation would have been to further reinforce the second tearable-layer as well as the resevoir.

In reference to Claim 15

Renner discloses most of the elements of the claimed invention except that the cavity layer further includes a second aluminum layer.

However Renner does teach that aluminum can be used as a layer (column 1 lines 7-23). It is also known in the art to use multiple layers for sealing a reservoir or to reinforce it (Navarini Figure 5A-5E). Both references teach a blister package. Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Renner's invention so that an additional layer is added to the cavity layer, as taught by Navarini. The motivation would have been to further reinforce the cavity layer.

In reference to Claim 16

Renner discloses most of the elements of the claimed invention except that a polyester layer and an adhesive layer are disposed between said cavity layer and said second aluminum layer.

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However Renner does teach that polyester can be used as a material for a layer (column 4 lines 42-50) as well as adhesive layer for adhering layers. It is also known in the art to use multiple layers for sealing / reinforcing a reservoir (Navarini Figure 5A-5E). Both references teach a blister package. Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Renner's invention so that two additional layers are added to the between the cavity layer and the second aluminum layer, as taught by Navarini. The motivation would have been to further reinforce the resevoir.

7. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Renner in view of Lippert (4,938,414).

In reference to Claim 14

Renner discloses most of the features of the claimed invention except a layer formed by a printers' varnish. However Renner does teach that an information provider can be printed on the cover foil.

Lippert teaches that printer's varnish maybe applied to the face of sheets (column 5 lines 8-22).

Both references teach a container where indicia can be applied for aesthetic purposes. Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Renner's invention so that a printer's varnish maybe applied, as taught by Lippert. The motivation would have been for decorative purposes.

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8. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Renner in view of Navarini and further in view of Lippert

In reference to Claim 17

Renner discloses most of the elements of the claimed invention except that the cavity layer includes a second outer layer, preferably formed by a protective layer or by a layer of varnish, preferably interposed with an adhesive layer.

However Navarini discloses that multiple layers of material can be used to reinforce / support the reservoir.

Lippert teaches that printer's varnish maybe applied to the face of sheets (column 5 lines 8-22).

All references teach a means for employing layers of material. Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Renner's invention so that multiple layers are added (as taught by Navarini) including an adhesive layer, (as taught by Renner) and a printer's varnish (as taught by Lippert). The motivation would have been for reinforcing the reservoir.

9. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kallstrand in view of Renner.

In reference to Claim 20

Kallstrand teaches a disposable inhaler with blister/compartments for dispensing powder (Abstract).

Renner teaches all of the features of claim 1, refer to rejection of claim 1.

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Both references teach a package for pharmaceutical articles. Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Killstand's invention so that the blister packages are substituted with the features of Renner's invention. The motivation would have been to use a different type of dispensing packing for easier dispensing.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KING M. CHU whose telephone number is (571)270-7428. The examiner can normally be reached on Monday - Friday 8AM - 5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on (517)272-4562. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jacob K. Ackun Jr./  
Primary Examiner, Art Unit 3728

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KMC